

Notice of Allowability

Application No.

10/656,600

Examiner

Christopher D. Koharski

Applicant(s)

ROSENBERG ET AL.

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/03/2007.
2. ☒ The allowed claim(s) is/are 11-23 and 33-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joshua T. Matt (55,435) on 12/13/2007.

IN THE CLAIMS

Please amend the claims as follows:

11. (Currently Amended) An implantable drug-delivery pump, comprising: a pump housing having a reservoir adapted to retain a fluid therein; a pump inlet port formed in the pump housing for delivering fluid to the reservoir; a reservoir outlet port formed in the pump housing and adapted to receive fluid from the reservoir; a driver mechanism effective to drive fluid from the reservoir to the reservoir outlet port; and a valve adapted to receive fluid from the reservoir outlet port, the valve including a multi-lumen member that has a first end coupled to the reservoir outlet port for receiving fluid flow from the reservoir and a second opposed end coupled to an outlet port for delivering fluid, the multi-lumen member being disposed within a valve housing having a restrictor member extending there across between opposed sidewalls thereof, the restrictor member being adapted to prevent fluid flowing from the reservoir from flowing therethrough and to

selectively restrict at least a portion of one or more lumens in the multi-lumen member to thereby adjust the flow rate of fluid flowing from the reservoir.

33. (Currently Amended) An implantable drug-delivery pump, comprising: a pump housing having a reservoir adapted to retain a fluid therein; a pump inlet port formed in the pump housing for delivering fluid to the reservoir; a reservoir outlet port formed in the pump housing and adapted to receive fluid from the reservoir; a driver mechanism effective to drive fluid from the reservoir to the reservoir outlet port; and a valve adapted to receive fluid from the reservoir outlet port, the valve including a multi-lumen member disposed within a valve housing and adapted to receive fluid flow in one direction therethrough, the valve housing having a restrictor member extending there across between opposed sidewalls thereof, the restrictor member being adapted to prevent fluid flowing from the reservoir from flowing therethrough and to selectively restrict at least a portion of one or more lumens in the multi-lumen member to thereby adjust the flow rate of fluid flowing from the reservoir.

Allowable Subject Matter

Claims 11-23 and 33-39 are allowed over the prior art of record as filed in the reply 10/03/2007 and as amended above.

The following is an examiner's statement of reasons for allowance: The claims in this application have been allowed because the prior art of record fails to disclose either singly or in combination the claimed device of an implantable drug pump with a housing, inlet, outlet, reservoir, fluid driver, multi-lumen member and a valve member which acts

a flow restrictor/controller of fluid through the system in which the fluid is prevented from flowing through the restrictor member.

The closest prior art of record is Dorman (4,299,220) and Hagiwara (5,116,308), however these references do not disclose the device as claimed by Applicant or described above.

Regarding claims 11 and 33, the closest prior art of record fails to teach among all the limitations or render obvious the interaction of the valve restrictor member and the multi-lumen to control the fluid through from the inlet and outlet ports in the pump housing.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date:

12/14/09


Christopher D. Koharski
AU 3763



NICHOLAS D. FUCCHESI
SUPERVISORY/TECHNICAL EXAMINER
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